

**MINUTES OF THE
LAKE COUNTY PLANNING COMMISSION**
February 27, 2007

The Lake County Planning Commission hereby finds and determines that all formal actions were taken in an open meeting of this Planning Commission and that all the deliberations of the Planning Commission and its committees, if any, which resulted in formal actions, were taken in meetings open to the public in full compliance with applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

Chairman Brotzman called the meeting to order at 7:00 p.m.

ROLL CALL

The following members were present: Messrs. Adams, Brotzman, Schaedlich, Klco (alt. for Troy), Morse, Siegel, Smith, Zondag, and Ms. Hausch and Ms. Pesec. Staff present: Messrs. Webster, Boyd, and Ms. Truesdell.

MINUTES

On page 5, “lost splits” should be changed to “lot splits” and “exemption” should be changed to “exception”.

Mr. Zondag moved and Ms. Hausch seconded the motion to approve the February 6, 2007 minutes with changes as submitted. The January meeting was postponed to February 6 due to the weather.

Nine voted “Aye”.
Mr. Schaedlich abstained.

FINANCIAL REPORT

Mr. Siegel moved to approve the January, 2007 Financial Report as submitted. Ms. Hausch seconded the motion.

All voted “Aye”.

Public Official Directory Quotes

Mr. Webster presented the quotes for the printing of the 2007 Public Officials Directory. The lowest bid was from Duke Printing of Eastlake for \$1,999.00.

Mr. Schaedlich moved and Mr. Klco seconded the motion to accept the bid of \$1,999.00 to print the 2007 Public Officials Directory.

All voted “Aye”.

PUBLIC COMMENT

There was no public comment.

LEGAL REPORT

Eye-Will vs. Driftwood Court Decision

Eric Condon, Assistant Lake County Prosecutor, said that a decision has been made on the Eye-Will vs. Driftwood case. Judge Lucci’s decision was supported by the Court of Appeals with one judge dissenting. The lone dissent gave no reason. The time has run out for it to go to the Supreme Court. Originally, the recommendation from staff was to make the connection and the Planning Commission voted that the connection need not be made by a 6 to 4 vote. Judge Lucci reversed this decision.

Mr. Webster said that neither Keystone or the last phase of the Noble Ridge Subdivision have moved forward but when they do, the connection will have to be made.

Mr. Condon said it was a factual decision by Judge Lucci and not based on more nebulous issues such as credit for stream crossings. The Judge said that the Planning Commissions' vote needed to be based more on fact.

DIRECTOR'S REPORT

Mr. Webster said that the budget hearing was held on February 26, 2007 and the shortfalls in the budget were discussed. We will be getting another account specifically for dues and membership fees and have been directed to apply chargebacks to related accounts. The Finance Department will present our requests to the Commissioners.

Mr. Webster directed attention to a handout that was distributed at the budget hearing showing what projects are being pursued exclusively by the Planning Commission and the partnerships we have formed with other organizations. It also shows the support we provide through board and member participation, customized mapping, demographic analysis, GIS production and working projects in process. We are presently meeting with leaders of Wickliffe, Willowick, Eastlake, and Fairport Harbor to discuss revenue generating projects. Our second annual Zoning Seminar will include Ashtabula, Geauga and, for the first time, Trumbull County.

Among the projects we contribute to is the Lakeland Community College Economic Development Strategy for Lake County. The Port Authority that was created by the impetus of the Coastal Plan Committee will help to create more economic development.

ANNOUNCEMENTS

Mr. Webster said the Ohio Lake Erie Commission for Balanced Growth is presenting a watershed seminar in March. The communities in the Grand River watershed and those bordering Lake Erie are going to need to develop a watershed plan in order for this area to become eligible for state funds in the future.

SUBDIVISION REVIEW

Concord Township – Quail Hollow Subdivisions Nos. 10 & 11, Extension Request for Approved Preliminary Plans

Mr. Boyd said that Quail Hollow Nos. 10 and 11 were approved three years ago. He pointed out the size and location of each development off Crile Road. The developers are asking for a one-year time extension for their preliminary plan approval based on some timing issues with the Corps of Engineers regarding wetland mitigation. The staff recommended approval of the one-year time extension for each subdivision.

Ms. Pesec asked why the wetland permit has taken so long to obtain.

Mr. Webster said a lot of the members of the Corps have been diverted to Iraq and there are not enough man-hours to complete the approvals. The Corps has not made a final decision on whether to mitigate or not.

Mr. Scharver said there were extenuating circumstances with the waterline.

Mr. Jim Pegoraro Jr. of Land Design said that the Corps said that the consultant the developer is using has used the Lake Metroparks as part of the permit process.

Mr. Boyd presented the request for Quail Hollow Subdivision No. 11. This is a request for a plan extension with 22 acres and 4 sublots for commercial development under the Planned Unit Development code. Once again, this was approved three years ago and there is a permit issue that is holding up the process. The ingress/egress is off Crile Road, south of the shopping center. Staff recommended granting the one-year extension.

Mr. Zondag asked if this project can be completed in one year.

Mr. Pegoraro said the developer thought he might phase in the portion where the existing pavement ends. There are less wetlands issues here. On Phase 11, they have to wait until the sanitary sewer comes through before they can develop that other piece. Quail Developers are

discussing doing something there, so once they get an answer as to the permit, they will start. He pointed out to Ms. Pesec where the sewers will come from No. 10 to get to No. 11.

Mr. Zondag asked what would happen if they did not grant the extension.

Mr. Webster said they would have to pay new fees and start over again.

With no further discussion, Mr. Brotzman asked for a vote.

Mr. Adams moved and Mr. Siegel seconded the motion to approve the extension request for approved Preliminary Plans for Quail Hollow Subdivision No. 10.

Mr. Zondag said he hated setting precedence without having a basis for the extension.

Mr. Adams suggested making a motion based on the problems.

Mr. Schaedlich said each situation is reviewed on a case-by-case basis and a decision is made with respect to this. In this situation, the developer is waiting for Corps approval and there could be changes that have to be made based on their input. There could be changes made based on the Corps' input.

Ms. Hausch asked if that was part of the motion to add.

Mr. Siegel amended the motion and Ms. Hausch seconded the amended motion to approve the extension request for Approved Preliminary Plans for Quail Hollow Subdivision No. 10 because of the Corps of Engineer's delayed permitting.

All voted "Aye".

Mr. Siegel made an amended motion and Mr. Adams seconded the motion to approve the extension request for Approved Preliminary Plans for Quail Hollow Subdivision No. 11 because of the Corps of Engineer's delayed permitting.

All voted "Aye".

Concord Township – Concord Commons, Preliminary Plan, 6 Lots

Mr. Boyd said Concord Commons is located on Crile Road on 8.76 acres and is zoned B-X, Business Interchange Zone, so it will be a commercial subdivision. There is no minimum lot size and B-X allows a wide array of land uses, with no open space required. There are 6 lots, all in excess of an acre.

Proposed Preliminary Stipulations:

1. A Storm Water Pollution Prevention Plan must be prepared for erosion and sediment control. Effective March 1, 2000, an approved Erosion and Sediment Control (ESC) Plan shall be submitted after the approval of the Preliminary Plans and obtained prior to the approval of the Improvement Drawings by the Lake County Planning Commission (Section 5 of the Lake County Erosion and Sediment Control Rules, adopted 12/21/99). ESC Plan approvals shall be obtained through the Lake County Soil and Water Conservation District. *Art. IV, Sec. 3, E - Art. IV, Sec. 3, F - Art. V, Sec. 4, A - Art. V, Sec. 4, B - Art V, Sec. 4, C*
2. Until plats and plans for the subdivision are approved, properly endorsed and recorded, no improvements such as sidewalks, water supply, storm sewers, sanitary sewerage facilities, gas service, electric service or lighting, grading, paving or surfacing of streets shall hereafter be made by the owner or owners or his or their agent, or by any public service corporation at the request of such owner or owners or his or their agent. *Art. I, Sec 4, B*

3. The subdivider shall set all permanent monuments for subplot corners prior to the recording of the subdivision. *Article I Section 4(H)*
4. All permanent monuments for the centerline shall be set prior to recording of the plat or the final release of the construction surety and acceptance of the maintenance surety. *Article I Section 4(I)*
5. Any subdivision with a preliminary plan filed after 1/27/04 will be required to provide a three year maintenance bond or surety when the subdivision goes into the maintenance phase. *Article V Section 8(D)*

Design Stipulations:

1. The adequacy of the storm sewer system on Crile Road should be examined in the final design. *Concord Service Dept.*
2. Applicant shall verify proposed pavement diameter on cul-de-sac with Planning Commission, Township Trustees and Township Fire Dept prior to final plat and preliminary improvement plan submittal. *Article IV, Section 2(A)(9)*
3. Access to sublots 1 and 6 should be restricted to the proposed Gold Court. *LCPC*
4. Existing building must be removed. *LCPC*

Technical Stipulations:

1. Commercial requirements shall be met. *LC Engineer*
2. The final status of the ditch at the back of the property should also be investigated with respect to drainage patterns in the area. *Concord Service Dept.*
3. Final approval could be forthcoming when detailed construction drawings are submitted to the Lake County Department of Utilities for review. *LC Sanitary Engineer*
4. If a subdivision sign is going to be used at the entrance to the development, then a landscape easement would be required. *Concord Twp.*
5. The existing building and parking must be removed, as noted, which are in violation of setback requirements under the proposed subdivision. *Concord Twp.*
6. The open space should be reclassified and identified as “buffer areas” on each lot, in compliance with the buffer requirements set forth in Section 24.10 A of the Zoning Resolution. *Concord Twp.*
7. The fire hydrant proposed at the end of the cul-de-sac shall be moved to the beginning of the cul-de-sac. *Concord Fire Dept.*
8. Fire flows must meet the ISO minimum requirements for size, type, and spacing for structures built. *Concord Twp. Fire Dept.*
9. Streets and Fire Hydrants must be installed and operational prior to start of construction of any structures. *Concord Twp. Fire Dept*
10. Spacing of fire hydrants will be determined by the Concord Township Fire Department and based on a case by case review. *Concord Twp. Fire Dept.*
11. A hydrant shall be placed at the entrance of the cul-de-sac (Permanent or Temporary). *Concord Twp. Fire Dept*
12. Hydrant flows must be 750 gallons per minute minimum. *Concord Twp. Fire Dept*

13. Hydrant steamer outlet shall be 5" Stortz fitting on all hydrant installations, and future installations, and future installations. *Concord Twp. Fire Dept*
14. Further study is needed to review looping possibilities. *Painesville City Water Dept.*
15. All water work must comply with the City of Painesville Water Division Specifications. *Painesville City Water Dept.*
16. Construction cannot begin before Ohio E.P.A. approval. *Painesville City Water Dept.*
17. Plans will be reviewed and returned to the engineer as soon as possible. *Painesville City Water Dept.*
18. Must complete an erosion and sediment control plan with the improvement plan drawings. *LCSWCD*
22. The subdivision improvements will require it to be built to commercial standards. *LC Engineer (submitted during pre-application conference)*
23. The ditch in the rear will need to be rerouted to the storm sewer. *LC Engineer (submitted during pre-application conference)*
24. Topographic features within and adjacent to the property being subdivided for a minimum distance of 200' must be shown. The engineer may determine the best source for this information. *LCPC Article III, Section 3 (D)(j)*

Technical Comments:

1. The name "Concord Commons" needs to be changed since the Township already has a Concord common development. *Concord Twp*
2. The name of the proposed project shall be changed. Concord Township already has a residential complex "Concord Commons" located on Johnnycake Extension in the northwest quadrant of the community. This will cause great confusion during an emergency response to either location. *Concord Fire Dept.*
3. Building numbers must be provided and installed prior to occupancy of any structure. *Concord Twp. Fire Dept*
4. Street name signs and "No Parking on Hydrant Side of Street" signs shall be provided and installed prior to the start of construction of any structure. *Concord Twp. Fire Dept*
5. Street name signs and mailbox house numbers must be double sided. *Concord Twp. Fire Dept*
6. All contractors are to be instructed NOT to park on the hydrant side of the street during any construction. *Concord Twp. Fire Dept*
7. Concord Township Fire Department will require a street "name change" if it is determined one is similar to others already established in Concord Township. *Concord Twp. Fire Dept*
8. Subdivisions with a total of more than 50 lots are required to have 2 means of access for safety purposes. (50 lots is the total for all phases or potential phases of the project.) *Concord Twp. Fire Dept*
9. This subdivision would be considered a redevelopment project as per Stormwater Management Department is concerned. *LC Engineer (submitted during pre-application conference)*

10. Water supply is available for the proposed subdivision. *Painesville City Water Dept.*
11. Detention for this site will have to be studied. *LC Engineer (submitted during pre-application conference)*
12. Concord Township Fire Department will NOT approve “Stub Streets” of any length. Temporary or permanent cul-de-sacs must be provided with a minimum diameter of 120’. *Concord Twp. Fire Dept*
13. Review comments made at pre-planning meeting. *LC Engineer*

Mr. Boyd said areas backing up to Quail Hollow Golf Course labeled as open space are technically buffer areas. There is an 18 foot earth mound that will not be disturbed. The final stipulation from the Lake County Engineer states that this road will have to be constructed to commercial standards. All agencies recommended approval with stipulations.

Ms. Pesec asked about Technical Comment 8 and was told that this was part of the new fire code that just went into effect.

Mr. Schaedlich moved and Mr. Smith seconded the motion to approve the Concord Commons, Preliminary Plan with 6 Lots with the stipulations and comments as presented.

All voted “Aye.”

Quail Hollow No. 12, Final Plat and Improvement Plans, 18 Lots

Mr. Boyd said that this development, on Ravenna Road, is part of the Quail development zoned R-2 PUD. Utilities have required a sewer line on Ravenna Road. He pointed out the location of the Jordon Creek corridor and the preservation area and access to it to be maintained by the homeowners’ association. One of the easements granted was a 60 foot block for the private drive. There is a second set of easements which go along the rear of the lots that front along Ravenna Road as well as the lots along Quail Ridge. It was stipulated by several responders that it was not clear who would be responsible for the two-acre open space parcel. There is a large flood plain in this area.

Proposed Final Plat Stipulation 4 says the Sanitary Engineer will not accept responsibility for sanitary sewer easements on private property. There are stormwater easements on some sublots that would be the responsibility of the homeowners’ association.

Mr. George Hadden of the Engineer’s office said that there are diffusers there and the homeowners would have to maintain it. They will be required to submit a plan showing how they will maintain it and the funds required.

It was pointed out that there are two sanitary sewer easements on the plat within the interior lots that are not located in a public right-of-way.

Mr. Boyd said that the Sanitary Engineer does not want responsibility for these areas. One disapproval came from Mr. Saari’s office because of this issue.

Mr. Webster said that Mr. Saari wants to be sure that the sewer lines on Ravenna Road are deep enough to service the east side of the road.

Proposed Final Plat Stipulations:

1. Any subdivision with a preliminary plan filed after 1/27/04 will be required to provide a three year maintenance bond or surety when the subdivision goes into the maintenance phase. *Article V Section 8(D)*

2. Proper language for Riparian Easement listed on cover sheet and page 4 is currently being revised. Applicant and Planning Commission shall verify proper language prior to recording of plat. *LCPC and LC Engineer*
3. If a subdivision sign is going to be used at the entrance, a landscape easement would be required. *Concord Twp.*
4. Lake County will not accept sanitary sewer easements. *LC Sanitary Engineer*
5. Who is responsible for Block A? Responsibility must be shown on plat. *LCPC*
6. Storm water easements as shown on sheet 4 of 6 should be the responsibility of the HOA, not the County Engineer. This should be reflected on the cover sheet. *LCPC and LC Engineer*

Design Comments:

1. Is Block A considered open space? If designated as open space, it can be counted toward the minimum open space percentage requirement for the overall development as set forth in Section 16.05 of the Zoning Resolution, provided it is devoid of any residential or commercial buildings. The Township does not want maintenance responsibility of this area. *Concord Twp.*

Technical Stipulations:

1. Comment #7 regarding maintenance responsibility in the center of the circle has not been satisfactorily addressed. A clear statement that Concord Township is not responsible for maintenance on the privately owned portions of the development should be made. Unless the project is converted to a conventional residential development with improvements that meet public ownership standards, Concord Township desires to be clearly excluded from maintenance responsibilities. *Concord Service Dept.*

Proposed Preliminary Improvement Plan Stipulations:

1. A Storm Water Pollution Prevention Plan must be prepared for erosion and sediment control. Effective March 1, 2000, an approved Erosion and Sediment Control (ESC) Plan shall be submitted after the approval of the Preliminary Plans and obtained prior to the approval of the Improvement Drawings by the Lake County Planning Commission (Section 5 of the Lake County Erosion and Sediment Control Rules, adopted 12/21/99). ESC Plan approvals shall be obtained through the Lake County Soil and Water Conservation District. *Art. IV, Sec. 3, E - Art. IV, Sec. 3, F - Art. V, Sec. 4, A - Art. V, Sec. 4, B - Art V, Sec. 4, C*
2. Until plats and plans for the subdivision are approved, properly endorsed and recorded, no improvements such as sidewalks, water supply, storm sewers, sanitary sewerage facilities, gas service, electric service or lighting, grading, paving or surfacing of streets shall hereafter be made by the owner or owners or his or their agent, or by any public service corporation at the request of such owner or owners or his or their agent. *Art. I, Sec 4, B*
3. The subdivider shall set all permanent monuments for subplot corners prior to the recording of the subdivision. *Article I Section 4(H)*
4. All permanent monuments for the centerline shall be set prior to recording of the plat or the final release of the construction surety and acceptance of the maintenance surety. *Article I Section 4(I)*
5. Subject to detail review of improvement plans by Lake County Engineer. *LC Engineer*

6. Sanitary sewer depths along Ravenna Road must provide gravity service to east side properties. *LC Sanitary Engineer*
7. Lake County will not accept sanitary sewer easements. *LC Sanitary Engineer*
8. Any work within the identified Floodplain will require a Special Flood Hazard Development Permit. *LC Engineer*

Preliminary Improvement Plan Comments:

1. What parts of development are private and what parts are public? *LC Sanitary Engineer*
2. Need 3 separate sets of plans and 3 separate approvals. *LC Sanitary Engineer*
3. The ESC Plan is complete and final approval will be forthcoming. *LCSWCD*

Mr. Boyd moved the discussion to the preliminary improvement drawings. There is a retention facility at Quail Ridge Court which drains off to the south near Jordon Creek that will be maintained by the homeowners' association.

Mr. Siegel moved and Mr. Schaedlich seconded the motion to approve the Improvement Plans and Final Plat for Quail Hollow No. 12 in Concord Township.

Mr. Zondag was concerned about the homeowners' association ability to maintain a pond and other easements for the long term. His concern was for overflow issues, weed control, stormwater issues, hazards for residents living there and their ability to maintain the detention basin for the long term. This is a major waterway issue impacting the stream and people living there for many years.

Mr. Adams recalled a previous meeting that if the county steps in where the homeowners' association is ineffective, the homeowners get taxed.

Mr. Condon is familiar with homeowners' associations and the problem usually is lack of funding. A homeowners' association is its own entity and needs to be funded properly so that it is self-sufficient and replenishes itself. He did not know if you can go after the homeowner. If it starts being underfunded, it is doomed. The realistic answer is to get the homeowners, not the homeowners' association, to be responsible. Without seeing the agreement, he could not say how it was set up.

Mr. Zondag said then this ends up in Stormwater's lap.

Mr. Webster said it is not a regional facility like Brightwood Lake could be considered a regional facility. Based on that, the situations are not comparable. However, the ownership and maintenance issues are the same. The Prosecutor's office has watched homeowners' associations' language for years. If they fail, the communities can tax the residents if needed. But that language has to be in the homeowners' association documents.

Mr. Siegel suggested adding a stipulation that the Prosecutor's office review the homeowners' association language.

Mr. Condon said that perhaps the Recorder's Office ought to be informing home buyers about the cost. It is comparable to a condominium association, declare it a common area and require that they take care of it.

Mr. Zondag asked if the Township or the Stormwater Department should be responsible for this? Who will be monitoring this?

Mr. Hadden said the Stormwater Department requires that the plan be submitted showing how they will maintain and fund it and are to provide yearly reports on how it is functioning.

Mr. Zondag said that gets into self-inspection and, without anyone looking, it could fail, then who is responsible? The problem is long term maintenance. He asked Mr. Condon if he could devise language designating responsibility.

Mr. Brotzman requested that a stipulation be added.

Mr. Siegel said the stipulation should say that the Township or the County has the authority to do the work and charge it back to the homeowners' association.

Mr. Webster said if they do not have that in the homeowner's association documents, it does not go to the Commissioners' for approval. It can be designated as to who has the legal right to do the work and how the cost will be billed back to the homeowners.

Mr. Condon said that if they do not have the power as statutory devices to do that, then it is all rendered useless. He would begin by saying "Individual homeowners are responsible for maintenance costs."

Mr. Condon suggested the following: "The Planning Commission requires that maintenance be provided for with language in the Homeowners' Association agreement and/or any other legal documents needing the approval of the Prosecutor's Office."

Mr. Scharver said that any parcel that gets developed in a township area has to submit to the Ohio EPA for approval. Whether the developer is a condominium, subdivision, or single lot, they have to develop a maintenance budget portion of their permit to satisfy the Stormwater Department, the County Engineer's Office, as well as the State. Mr. Zondag's point about the homeowners' association not carrying through on a maintenance agreement with the whole intent of the Clean Water Act Phase II Program would be to educate the public in general in terms of these issues which we are four years into this first round. The second round next year will address that matter, hopefully. There are already layers of bureaucracy in place so that if the homeowners' association fails to act, ultimately, the Ohio EPA, the County Engineer, and the Stormwater Department will be advised.

Mr. Condon asked if the Ohio EPA approved the homeowners' association language.

Mr. Scharver said they do not approve it right now because they do not review the claims.

Mr. Condon suggested the following language for the stipulation: "The Planning Commission requires that the maintenance be provided for detention basins with language in the Homeowners' Association agreement and or any other legal document being reviewed to the satisfaction of the County Prosecuting Attorney."

Mr. Siegel moved to amend the motion as suggested by Mr. Condon and Mr. Schaedlich seconded the motion.

Mr. Brotzman said there is a motion and a second on the table and asked if there was any further discussion.

Mr. Klco added that he would be reluctant to buy a lot in this development knowing all the potential problems. Issues of turn arounds, private drives and fire trucks have not been discussed. Should not these issues be addressed? The homeowners have to read the documents.

Mr. Condon agreed that we had this come up in other situations.

Mr. Brotzman asked for a vote to add the amendment. The amendment is: "The Planning Commission requires that maintenance be provided for detention basins with language in the homeowners' association agreement and/or any other legal document being reviewed to the satisfaction of the County Prosecuting Attorney." This becomes stipulation number 7.

All voted "Aye".

Mr. Brotzman said we have an amended motion to vote on the Final Plat for Quail Hollow No. 12 with 18 lots in Concord Township.

Mr. Webster asked if a roll call was desired. It was determined that it was. The motion is to approve with a “yes” vote needed to approve it as amended.

Adams	Yes	Pesec	No
Brotzman	No	Schaedlich	Yes
Hausch	Yes	Siegel	Yes
Klco	No	Smith	Yes
Morse	No	Zondag	No

Five voted “Yes”.
Five voted “No”.
Motion fails.

Mr. Webster said the developer can re-apply or they can go to a lawsuit. That vote was just for the plat not improvement plans.

Mr. Condon suggested that they could ask the Prosecutor’s office to review the homeowners’ association agreement.

Mr. Pegoraro asked if he was to assume that this was the first time this issue has come up. These issues will be coming up on every subdivision that they do. It is not so much that drainage is an issue, as water quality that they provide, which was not there a couple years ago. He asked if we were saying that the private drive and private condominium issues were obsolete until language is corrected. Can not this be approved with the proper language?

Mr. Zondag said people are uncomfortable with the issues of what happens if something goes wrong, whether it is private roads or retention basins. The system by which you maintain cannot work.

Mr. Pegoraro said that an amendment was made to put in a stipulation and make sure the language was there and then you voted no.

Mr. Scharver agreed saying he did not understand the point of passing an amendment to vote no and there has been Ohio EPA approval. The Stormwater Department is in the process of approval. This is a problem in the County but he did not know if it should be resolved this way.

Mr. Brotzman said, while this is still on the table, he can entertain a motion to reconsider their decision.

Mr. Siegel moved and Mr. Schaedlich seconded the motion to reconsider the motion.

All voted “Aye”.

Mr. Webster said that with a “no” vote, the only recourse the developer has is to start over paying fees, or he can take it to court within 30 days. As long as you agree to reopen this, you can have a discussion to change your decision because of other information to be considered.

Conversation ensued agreeing that the issue is not the design of the subdivision but who is going to maintain the drainage facilities. The Commission asked and it was agreed that the Prosecutor’s office would review and approve the homeowners’ association document so the homeowners’ association will be responsible for paying any maintenance.

Mr. Condon agreed saying that it says, “language satisfactory to the Prosecutor’s Office.”

Mr. Smith said we are trusting the Prosecutor’s Office to do what we asked them to do.

Mr. Condon said if we get more specific then he could not say that the law even allows them to do what the Planning Commission has empowered them to do.

Ms. Hausch asked if prior votes on subdivisions hinged on the homeowners’ association. She thought that when there was a homeowners’ association involved, we depended on them to police the situation.

Mr. Brotzman said she was right, but here, if there was a taxable obligation because of maintenance, can it be applied to the homeowners’ association. He gathered it could not without us taking some extra steps.

Ms. Hausch said the extra step was the proper language with the Prosecutor’s office.

Mr. Brotzman asked for a motion to approve the final plat with seven stipulations.

Mr. Condon asked if he could put into the motion for the Prosecutor’s office that “approval will not be unreasonably withheld”? It would be better if it is on the record.

Mr. Siegel moved and Mr. Smith seconded the motion to approve the Final Plat for Quail Hollow No. 12 with 18 lots in Concord Township with 7 stipulations and the added language that “approval will not be unreasonably withheld”.

Mr. Webster asked for a roll call. The motion is to approve. A “yes” vote would approve it as amended.

Adams	Yes	Schaedlich	Yes
Hausch	Yes	Siegel	Yes
Klco	No	Smith	Yes
Morse	Yes	Zondag	Abstain
Pesec	No	Brotzman	Yes

Seven voted “Yes”.
Two voted “No”.
One abstained.
Motion passes.

Mr. Schaedlich moved and Ms. Hausch seconded the motion to approve the Preliminary Improvement Plan Stipulations for Quail Hollow No. 12 with 18 lots in Concord Township.

All voted “Aye”.

Mr. Brotzman granted the Planning Commission a break in the meeting at 8:55 p.m.

The meeting resumed at 9:02 p.m.

Mr. Brotzman said that several months ago Ms. Nocero was asked a question about assigning these maintenance responsibilities directly to members of the homeowners’ association. It was Mr. Adams recollection that language already existed. He asked Mr. Condon to research that. She thought we already had the ability to put that obligation directly onto the homeowners association.

Mr. Condon agreed to research this question.

Madison Township – Red Bird Subdivision, Preliminary Plan, 31 Lots
Madison Township – Red Bird Subdivision, 3 Variances to Article IV, Section 2(A)(8), Section 2(C)(1), and Section G(2)

Mr. Boyd said this subdivision is on the east side of Red Bird Road, north of Chapel Road encompassing 20 acres. The zoning allows for under one-half acre in a R-2 with no open space requirements. Utilities are in the area of development. There is a stream running through the middle with a few structures that have to be removed. The first phase is lots 1 through 5. He

pointed out some wetland areas and some that would be mitigated and the two proposed retention ponds.

Mr. Zondag asked about the wetland between St. John's and Jacob's Court. He wanted to know the soil type. He was told that the soil type was mostly Stafford Sandy Loam.

Mr. Boyd said that some of the stipulations include temporary cul-de-sacs which must be installed at the end of Nate's Drive. There is a minor variance applying for block length. We require a 500 foot minimum block length. It is divided because of the existing Magnolia Drive right-of-way that is already there. So that constitutes a block by default.

Proposed Plan Stipulations:

1. A Storm Water Pollution Prevention Plan must be prepared for erosion and sediment control. Effective March 1, 2000, an approved Erosion and Sediment Control (ESC) Plan shall be submitted after the approval of the Preliminary Plans and obtained prior to the approval of the Improvement Drawings by the Lake County Planning Commission (Section 5 of the Lake County Erosion and Sediment Control Rules, adopted 12/21/99). ESC Plan approvals shall be obtained through the Lake County Soil and Water Conservation District. *Art. IV, Sec. 3, E - Art. IV, Sec. 3, F - Art. V, Sec. 4, A - Art. V, Sec. 4, B - Art V, Sec. 4, C*
2. Until plats and plans for the subdivision are approved, properly endorsed and recorded, no improvements such as sidewalks, water supply, storm sewers, sanitary sewerage facilities, gas service, electric service or lighting, grading, paving or surfacing of streets shall hereafter be made by the owner or owners or his or their agent, or by any public service corporation at the request of such owner or owners or his or their agent. *Art. I, Sec 4, B*
3. The subdivider shall set all permanent monuments for subplot corners prior to the recording of the subdivision. *Article I Section 4(H)*
4. All permanent monuments for the centerline shall be set prior to recording of the plat or the final release of the construction surety and acceptance of the maintenance surety. *Article I Section 4(I)*
5. Any subdivision with a preliminary plan filed after 1/27/04 will be required to provide a three year maintenance bond or surety when the subdivision goes into the maintenance phase. *Article V Section 8(D)*

Design Stipulations:

1. Temporary cul-de-sacs must be installed at the end of Nate's Drive, South St. John Drive and Magnolia Drive. *Article IV Section 2 (A)(8)*
2. Street right-of-ways must be 60'. *Article IV Section 2 (C)(1)*
3. No block shall be less than five hundred feet. *Article IV Section 2 (G)(2)*
4. Block A must be combined with subplot 12. *Article IV, Section 3 A, 3.*
5. A sixty foot right of way is required. Tying into 50 foot is not a hardship. *LC Engineer*
6. Temporary cul-de-sac shall be required at phase line unless phase 2 plans have been approved and a construction surety posted. *LC Engineer*
7. Adjust frontage on lot #24 to 100 feet by gaining frontage footage from lots #25 and #26. If the developer does this, he will not need a variance. *Madison Twp.*

8. Open spaces “A and B” need to be added to other parcels for ownership concerns. As open spaces are now, Section 107, minimum frontage, is not met. The open spaces in this area need to be added to lot 18 and 19 for maintenance reasons. *Madison Twp. and LCPC*
9. Block A does not meet the requirements of Section 107. This area should be added to lot #12 or parcel # 01B-116-018. *Madison Twp. and LCPC*
10. The Magnolia Olive Stub needs a turnaround for emergency vehicles, snow plows and school buses. *Madison Twp.*
11. Riparian setback is missing on east side of water course on subplot 11. *Article IV, Section 3(D)(3)d*
12. No plat shall be approved for a subdivision which contains poor drainage facilities and which would make adequate drainage of the lots and streets impossible. However, if the subdivider agrees to make improvements which will, in the opinion of the County Engineer, make the area safe for residential occupancy, and provide adequate lot and street drainage, the preliminary plan of the subdivision may be approved. *Article I, Section 4 (D) and Article IV Section (3)(f)3*

Design Comments:

1. Can South St. John Drive be extended to Indianola Drive? *LC Sanitary Engineer*
2. Will Magnolia Drive be ‘opened’ to existing Magnolia Drive? *LC Engineer*

Technical Stipulations:

1. Work within Floodplain will require a Special Flood Hazard Development Permit. *LC Engineer*
2. If 3 sided box culvert is 10 foot or greater, bridge design criteria must be met. *LC Engineer*
3. Roadside ditch elevation shall be a minimum six inches below aggregate drains. *LC Engineer*
4. Determination of easement approvals at that time. *LC Sanitary Engineer*
5. Final approval could be forthcoming when detailed construction drawings are submitted to the Lake County Department of Utilities for review. *LC Sanitary Engineer*
6. Hydrant spacing is more than the 300’ limit. *Madison Twp. Fire Dept.*

Technical Comments:

1. All wetlands permits (USACE and/or OEPA) shall be obtained prior to the start of construction and copied to the District. *LCSWCD*
2. Jurisdictional determination by US Army Corps of Engineers and Ohio EPA should be obtained before further subplot, roadway and utility configurations are completed. Field evaluations by the District on January 9, 2007 indicate that the wetlands on site may be more expansive than currently delineated. *LCSWCD*
3. Ohio EPA NPDES permit for general storm water management and erosion & sediment control shall be obtained prior to the start of construction and copied to the District. *LCSWCD*
4. Future homeowners should expect serious drainage challenges due to the Stafford loamy fine sand soil type and accompanying drainage patterns apparent at the site. *LCSWCD*

Mr. Boyd said another variance pertains to the 60 foot right-of-way requirement. The applicant is looking at a 50-foot right-of-way.

Sublot 24 is short in frontage. The lot lines have been adjusted to meet the 100-foot frontage requirement since the plan was submitted. Open spaces A and B have frontage and minimum zoning issues. There must be access to an area that is land locked without frontage. Block B has insufficient frontage along the cul-de-sac. Design Stipulation 12 and Technical Comments 2 and 4 were concerns of the Soil and Water District. The extent of wetland delineation needs to be verified by the Corps of Engineers.

Mr. Zondag pointed out that, with a 3-foot differential, there is no drainage on this site and no place for water to go out onto the property

Mr. Klco asked about Technical Stipulation 3.

Mr. Boyd said the existing infrastructure is roadside ditches.

Mr. Hadden said typically, the ditches are 3 to 4 feet deep.

Mr. Siegel said lots 16, 17 and 18 look likely to retain water.

Mr. Brotzman said he observed two streams crossing Lake Road West coming out of this property. As internal as this project is, do those ditches have to be dug down to and under Lake Road West?

Mr. Webster said we can and have caused the developer to make improvements to alleviate any flooding to downstream property.

Mr. Brotzman was told that the way to get drainage out of this property to the Lake was to have easements.

Mr. Schaedlich said this was a preliminary submission and we have to give the developer a chance to resolve these issues.

Mr. Zondag said he did not think the plan looks feasible even if it is only a preliminary plan.

Mr. Schaedlich said they have not done the really hard work. They have to deal with those issues and come back with a final plan. All concerns should be put down in the form of stipulations, but to keep arguing the process is not productive.

Mr. Brotzman asked Mr. Boyd about the EPA wetland delineation, jurisdictional determination. Did not we discuss this a couple of months ago when we talked about how long this procedure can take?

Mr. Boyd said that was when the Board wanted to require an affirmed delineation. At least we would know that what the consultants point out as wetlands, may or may not have an impact on lot layout, riparian setbacks, and so on.

Mr. Brotzman said, if what was being suggested here is an affirmed verification, it might take a considerable period of time.

Ms. Pesec said the case could be that the District has determined the property looks questionable, with there being a specific case of concerns.

Mr. Brotzman said that even with our stipulations and comments, Mr. Pegoraro may not be able to move forward with any assurance until the EPA makes a determination.

Mr. Pegoraro said that was the reason for the first phase of five lots which has no bearing on sewer issues or wetlands.

Mr. Adams said that the preliminary plan also opens dialogue between the developer and staff about these issues.

Mr. Boyd continued with the discussion of the variances. The first is to Article IV, Section 2(A)(8), temporary cul-de-sacs. Staff thought that due to the fact that the easterly sideline of proposed South St. John Drive is the easterly property line, it is not possible to create a temporary cul-de-sac at the end of Nate's Drive. He stated that the Township and Fire Chief concurred.

Mr. Zondag asked if Magnolia Drive would be connected to traffic flow.

Mr. Boyd said, as the plan shows, the colored portions of right-of-way will be improved with pavement to county standards with about 200 feet of Magnolia Drive included. On the other end of Magnolia is improved with homes on it up to a stopping point, but the right-of way exists as a paper street beyond that point. The developer proposed to improve only 200 feet of Magnolia. The balance between here and the existing improved part will remain an unimproved paper street. We cannot force the developer to connect.

Mr. Pegoraro said they are proposing to go eastward on Magnolia because they have an agreement with owners of the existing sublots on Magnolia and south on Indianola to get a sewer through there. To do this they will consolidate some of those lots and they will not be including them in the subdivision. The sewer will be going to Indianola and up St. John. The first five lots would go through to Redbird Road. Everything else would go through to the north. The sewer is on Lake Road.

Mr. Boyd said the second variance to Article IV, Section 2(A)(8), temporary cul-de-sacs, is a request by the developer to not install a temporary cul-de-sac at the north end of South St. John. Staff thought that a cul-de-sac was not warranted if Magnolia Drive is opened and improved as indicated on the preliminary plan. The developer will be responsible for installing a temporary cul-de-sac at the terminus of Magnolia Drive or shall present a satisfactory solution. From staff's and Township Fire Department's view, the developer needs to either install a cul-de-sac at the north end of South St. Johns Drive or ensure that the first 200 feet of Magnolia Drive is put in off of South St. Johns Drive.

Mr. Brotzman said that the staff wants the cul-de-sac in one place or the other. They have not asked for it on Magnolia.

Mr. Boyd replied, not as yet.

Mr. Boyd said staff recommended approving the northern variance based on a satisfactory remedy to the Magnolia Drive temporary cul-de-sac. They will have to show a temporary cul-de-sac, install it, or request a variance. Staff is willing to work with Magnolia Drive improvements when the subdivision comes back. No variance was applied for tonight so staff had to stipulate this. Nate's Drive is the bottom cul-de-sac; St. John's is the top cul-de-sac. If Magnolia is opened and approved, staff would be willing to vary St. John's as well.

The next variance request was to Section 2(C)(1), the 60-foot right-of-way. They are requesting a 50-foot variance. The Madison-on-the-Lake areas are generally 50-foot right-of-ways. The developers are trying to tie into Magnolia Drive which is 50-foot wide and the position of South St. John Drive as we show it would allow a future tie in to the existing St. John Drive which is 50-foot wide without creating an offset variance at Indianola Drive which is also 50-foot wide. The developer further states that the constraints of the wetlands, and the fact that a portion of Nate's Drive and all of St. John's Drive have lots on only one side of the road, they would use the additional 10 feet to meet and exceed Township codes.

Mr. Boyd said the County Engineer disapproved of the 60-foot right-of-way.

Jerry Klco, Zoning Inspector for Madison Township, commented that the Trustees approved with stipulations the reduction in right-of-way as long as pavement of road remains the

same width. The Trustees agreed to the cul-de-sac variances as long as on Magnolia, there is a place for the fire trucks, school buses and snowplows to turn around. The driveway on subplot 28 could be on the southern end of the lot.

Mr. Pegoraro said we could stipulate that.

Mr. Klco said that would increase the 106 feet. The Township does not disapprove of this subdivision pending these recommendations.

Mr. Condon said you have to take what anyone other than all the Trustees agreeing. It is all hearsay.

Mr. Boyd talked about the next variance to Article IV, Section 2 (G)(2), short block on South St. John Drive from Nate's Drive to the proposed Magnolia Drive. Even though that is an unimproved paper street, it still constitutes a block. The Township Trustees had no objection to the block being less than 500 feet, if the Planning Commission approves the variance.

Mr. Boyd responded to Larry Klco's question that the diameter of Jacob's Court was 110 feet.

Mr. Brotzman asked Jerry Klco about the Township Trustees and Fire Chief's disapproval of the variance request to the South St. John's Drive temporary cul-de-sac.

Jerry Klco said that was prior to knowing Magnolia would be addressed for a cul-de-sac.

Mr. Boyd noted that the Fire Chief stated that the fire hydrants were not spaced correctly. That was their lone stipulation. With the first comment sheets sent to Madison Township Trustees, staff wanted to make sure they were in agreement. The Trustees submitted a second comment after reconsideration of the Magnolia Drive situation and the impact of those variances.

Mr. Brotzman said as he looks at the variance request at the north end of South St. John Drive, we are being asked to consider a variance to not put in a cul-de-sac. The consideration is, if they make it at the end of Magnolia, it will be OK. Since they have not asked for a variance on Magnolia, we really cannot consider the fact that they might put one there. We have to address the fact that they need to put one on South St. John Drive.

Mr. Boyd said it has been stipulated that it has to be addressed in the future.

Mr. Brotzman said, if we vote to require this cul-de-sac on South St. John, they can come back later with a variance request to have it on Magnolia and ask us to undo the one on South St. John.

Mr. Boyd said he was not sure variances could be undone.

Mr. Adams said they can put it differently in the final plat, if that is what they want to do. If we approve the preliminary, we could stipulate a cul-de-sac on Magnolia.

Mr. Boyd said the stipulation is in place with temporary cul-de-sacs having to be provided at all three places.

Mr. Adams addressed Mr. Brotzman saying the Magnolia cul-de-sac is already stipulated.

Mr. Brotzman asked Mr. Pegoraro if he would request in writing a motion to table this.

Mr. Pegoraro said it was up to his clients, and he did not know if they would put a cul-de-sac on the north end of South St. John or on Magnolia. They thought that because of the proximity of the two and the intersection, they could do without it. He thought there was a way to stick it at the end of Magnolia. The uncertainty of Magnolia was a concern. If the Commission wanted to stipulate it, that would be fine.

Mr. Brotzman said that as they move into a motion, there may be additional stipulations from the Board. He asked if Mr. Pegoraro would want to table the subdivision.

Mr. Pegoraro said he did not think that any of the stipulations were of major concern. Without doing any major design work, he did not feel comfortable tabling the subdivision.

Mr. Zondag expressed his concern about passing a preliminary plan on a piece of property with poor drainage, no place for the water to flow, wet sites and a perched water table.

Mr. Brotzman said that preliminary approval will not allow them to break any ground.

Mr. Boyd said to keep in mind how that will affect lot layout and lot dimensions.

Mr. Brotzman pointed out Stipulation 12 that sums up these concerns.

Mr. Boyd said that staff made sure to point out the drainage problems in the stipulations.

Mr. Zondag asked Mr. Hadden how much water does a site have to handle before it becomes an issue?

Mr. Hadden said it is called the Critical Storm Method. They take the one year pre run-off compared to the one-year post run-off, as developed, and that percent increase is what they have to design for.

Ms. Hausch said that on the subdivision itself, "Staff recommends approval with stipulations." On the variances, "Staff recommends approval, except on the St. John's Drive temporary cul-de-sac." This is a preliminary and staff has had many years experience.

Ms. Hausch moved to approve the stipulations and comments for the Preliminary Plan for Red Bird Subdivision in Madison Township with 31 Lots. Mr. Smith seconded the motion.

Seven voted "Aye".

Three voted "Nay".

Motion passed.

Mr. Brotzman asked for a vote on the Nate's Drive variance.

Mr. Smith moved to approve the request for a variance to Article IV, Section 2(A)(8) to create a temporary cul-de-sac on Nate's Drive in the Red Bird Subdivision of Madison Township. Mr. Schaedlich seconded the motion.

Eight voted "Aye".

Two voted "Nay".

Motion passed.

Mr. Boyd said the next variance request is for a temporary cul-de-sac on South St. John's Drive. Staff, Township Trustees, and Fire Department approved this with stipulations. Staff's stipulation is: "Similar to concerns expressed by Madison Fire Department, staff believes a cul-de-sac is not warranted if Magnolia Drive is opened and improved as indicated on the preliminary plan. The developer will be responsible for installing a temporary cul-de-sac at the terminus of Magnolia Drive or shall present a satisfactory solution."

Mr. Brotzman said if the request is denied there would have to be a cul-de-sac at the end of South St. John. If the request is approved there is a temporary cul-de-sac at the end of Magnolia.

Mr. Boyd said this is on paper. If they come back next month and apply for a variance on Magnolia Drive, then that would have to be voted on.

Mr. Smith moved to approve the request for a variance to Article IV, Section 2(A)(8) to create a temporary cul-de-sac on South St. John's Drive in the Red Bird Subdivision of Madison Township with the provision that Magnolia Drive be extended and a cul-de-sac put on the terminus. Mr. Schaedlich seconded the motion.

Eight voted "Aye".
Two voted "Nay".
Motion passed.

The third variance was the 50-foot right-of-way reduction. If it is varied it will go to 50-foot wide. If it is denied, a 60-foot width will be required.

Mr. Schaedlich moved to approve the variance request to Article IV, Section 2 (C)(1) to reduce the right-of-way from 60 feet wide to 50 feet wide in Red Bird Subdivision of Madison Township. Mr. Smith seconded the motion.

All voted "Nay".
Motion failed.

Mr. Boyd said the final variance is the short block length requirement between Nate's Drive and Magnolia Drive. The requirement is 500 feet and they have 472.13 feet. It is a function of design of the existing site.

Mr. Zondag asked if Magnolia can be moved north.

Mr. Pegoraro said there are property owners who would object.

Mr. Webster said in a subdivision of this size, 500 feet is rather excessive.

Mr. Schaedlich moved and Mr. Smith seconded the motion to approve the variance request to Article IV, Section 2 (G)(20) to vary the block length from 500 feet to 472.13 in Red Bird Subdivision of Madison Township.

Nine voted "Aye".
One voted "Nay".
Motion passed.

LAND USE AND ZONING REVIEW

Madison Township – Proposed Text Amendments to Section 126, Site Development Plan Review

Mr. Boyd said this concerns Madison's site plan review process, which is required for any use or development involving new construction, reconstruction or expansion of structures in the R-4, R-5, P-1, B-1, B-2 and M-1 zones. In 2005, Section 519.02 of the Ohio Revised Code was amended to allow Ohio townships to 'lightly' regulate exterior architectural features and landscaping, excluding building materials. The amendments will provide better design and control measures for developments during initial phases of the project. Staff explained that developers are willing to work within the specified guidelines as long as they are fair and discussed early in the planning process.

The Township is proposing to add Sections 126.6, 126.8 and 126.10. Existing Sections 126.6 and 126.7 will be renumbered accordingly. Staff recommendations are as follows:

- In proposed Section 126.6, b: add "in accordance with 519.02 of the Ohio Revised Code."
- While proposed Section 126.8, b may suffice, the following text is submitted to strengthen the section.

Zoning Commission shall either:

- a. Approve the site plan as submitted; or

b. Conditionally approve the site plan subject to the inclusion of specific conditions not originally included in the plan as submitted. Such conditions may include, but not be limited to, improvements to the general lot layout, open space arrangement or on-site control of access to streets.

- i. The Zoning Inspector shall issue a letter to the applicant within 7 days specifically stating the conditions placed upon the application.

c. Deny the site plan because the proposed plan does not meet the requirements and purposes of these regulations. When denied, the Zoning Commission shall identify the deficiencies and suggest modifications to the site plan that, if made, may bring the site plan into compliance.

- i. The Zoning Inspector shall issue a letter to the applicant within 7 days specifically stating the decision of the Zoning Commission.
- ii. A modified site plan may be resubmitted for consideration by the Zoning Commission at a regularly scheduled meeting. The Zoning Inspector shall transmit such plans to the Zoning Commission, which shall be reviewed in accordance with the criteria set forth in Section ____.

2. Upon conditional approval of the site plan, the developer shall prepare and submit to the Zoning Inspector a final site plan. The final site plan shall include any modifications required by the Zoning Commission during the site plan approval procedures. The Zoning Permit will not be issued until conditions placed on the site plan by the Zoning Commission are met and included by the applicant in the final site plan.

3. Upon approval of the site plan as described in Section ____, the Zoning Inspector shall issue a Zoning Permit for the proposed use.

4. The Zoning Commission shall act within sixty (60) days from the date the application was determined to be complete, or an extended period as mutually agreed upon by the applicant and Zoning Commission.

- Proposed Section 126.10 may have potential conflicts with existing Section 126.6, f. Staff recommends the proposed 126.10.

Mr. Morse moved and Mr. Smith seconded the motion to accept the recommendation of the Land Use and Zoning Committee and recommend approval of the Proposed Text Amendments to Section 126, Site Development Plan Review with the suggested comments.

All voted "Aye"

REPORTS OF SPECIAL COMMITTEES

There were no reports of special committees.

CORRESPONDENCE

There was no correspondence.

OLD BUSINESS

There was no old business.

NEW BUSINESS

Leave Donation Policy

Mr. Webster said that the Leave Donation Policy has been adopted by the Commissioners and he requested that the Planning Commission adopt it for staff. The purpose of the policy is to allow county employees to donate unused leave to a fellow employee who has a critical need due

to a serious illness or injury to himself or a member of his immediate family. The donation can

be to employees within this department or with other departments in the County who adopt the policy.

Mr. Zondag moved to adopt the Leave Donation Policy for employees of the Planning Commission. Mr. Schaedlich seconded the motion.
All voted “Aye”.

Lake County Coastal Plan Committee Video

Mr. Webster said that the Coastal Plan Video is available in the office for anyone wishing to see it.

PUBLIC COMMENT

There was no public comment.

ADJOURNMENT

Mr. Siegel moved and Mr. Klco seconded the motion to adjourn the meeting.
All voted “Aye”.

The meeting adjourned at 10:27 p.m.

Timothy C. Brotzman, Chairman

Darrell C. Webster, Director/Secretary